

SHER TREMONTE LLP

April 5, 2018

BY ECF

The Honorable Ronnie Abrams
United States District Judge
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v. Galanis et al.*, 16-cr-371 (RA)

Dear Judge Abrams:

We write on behalf of Gary Hirst, Michelle Morton, John Galanis, and Bevan Cooney, defendants in the above-referenced matter, in response to the government's two letters filed today, Dkt. Nos. 379 & 380, regarding materials disclosed to the government by Devon Archer under Rule 16(b) (the "Archer Production"). The government complains about the volume and timing of the Archer Production. While we take no position on that issue at this time, we are concerned about the government's statement in its most recent letter that in order to avoid its *Brady* obligations, it is returning the Archer Production to Mr. Archer. *See Youngblood v. West Virginia*, 547 U.S. 867, 868-70 (2006) (defendant "clearly presented a federal constitutional *Brady* claim" where state trooper refused to take possession of arguably exculpatory material "and told the person who produced it to destroy it"). In light of the government's stated intention to "send Archer's production back to him forthwith," Dkt. No. 380, at 1, we respectfully request that the Court issue a preservation order requiring the government to retain the material until such time as the Court can make a determination as to the government's *Brady* obligations with respect to the Archer Production.

Respectfully submitted,

/s/ _____
Michael Tremonte
Noam Biale
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/s/ _____
Barry Levin, Esq.

Attorneys for Gary Hirst

cc: All counsel (by ECF)